



**Chhattisgarh State Electricity Regulatory Commission**  
Civil Lines, G.E. Road, Raipur – 492001  
Tel: 0771-4073555, Fax-4073553

**Petition No.36 of 2006(M)**

**In the matter of review of the tariff order for the year 2006-07 for  
Chhattisgarh State Electricity Board**

Bharat Alumibium Company Limited  
Korba.

.... Petitioner

V/s

Chhattisgarh State Electricity Board  
Raipur

.... Respondent

Present: S.K.Misra, Chairman  
Sarat Chandra, Member

**ORDER**

(Passed on 02/12/2006)

M/s Bharat Aluminum Company (BALCO) has submitted this petition under section 94(1) of the Electricity Act, 2003 (the Act, for short) read with Regulations 33 and 34 of the CSERC (Details to be furnished by a licensee/generating company for determination of tariff and manner of making application) Regulation, 2004 for review of the tariff order passed by this Commission on 13/09/2006 in petition No.24 of 2006(T) by which the retail supply tariff for the financial year 2006-07 of Chhattisgarh State Electricity Board (CSEB or Board) has been determined. This review application has been preferred on the following grounds:

- (i) The tariff order does not indicate whether the special provisions made in respect of captive power plants and their captive consumers in this Commission's order dated 06/02/06 passed in petition No.17 of 2005(M) prevail over the former. The tariff order should have clearly indicated the position of the special provisions in relation to the order.
- (ii) The Commission has imposed a monthly minimum charge at a flat rate of 15% load factor (LF) irrespective of the load of the consumer in the new tariff applicable during the year 2006-07. The position of the petitioner is different from other consumers with which he has been bracketed and this fact has been recognized by the Commission in the order passed in Petition No.16 of 2005(M) on 17/10/05 in review of the tariff notified for the year 2005-06.
- (iii) Since the LF of the petitioner is generally below 10% of its contract demand (CD) the tariff category HV-6 in the impugned tariff order, which is meant for low LF industries, should be modified and made applicable to all consumers

having low LF below 15% without any restriction of time on uses, so as to include him.

- (iv) The parallel operation charges @ Rs.10/- per KVA imposed on all captive power plants in the impugned tariff order is unjustified and contrary to the provisions of the National Tariff Policy, which mandates creation of an environment to encourage captive power plants to be connected to the grid.

2. The petitioner has prayed that the Commission review the tariff order dated 13/09/06 and pass orders 'confirming that the minimum monthly charges are not applicable to consumers having their own captive power plants as per the order dated 06/02/06 applicable to captive power plants aforementioned notwithstanding the provision for the same in the impugned order. It has been further prayed that the scope of tariff category HV-6 be expanded to include him. Thirdly, the Commission should pass orders withdrawing/ deleting the provisions of parallel operation charges or putting a ceiling of maximum of parallel operation charges as in the order of the Gujarat Electricity Regulatory Commission.

3. In their rejoinder and additional submissions filed on 25/11/06 the petitioner has further pleaded that the Commission has erred in not clarifying the position of the captive power plant related order of 06/02/06 in relation to the new tariff order. It has also been pleaded that the Commission has relied on incorrect LF submitted by the CSEB in arriving at the tariff. The petitioner has also made elaborate pleadings on why parallel operation charges should be reduced or done away with.

4. In their reply filed on 21/11/06 respondent CSEB has argued that BALCO has not made out a prima facie case in favour of maintainability of the review petition, in as much as no error apparent on the face of the order has been brought out in their application. It has been further averred that the tariff order can not be modified to suit the petitioner on the ground that his LF is low. Nor should the tariff category HV-6 need be modified merely on that basis since there is no apparent error in the formulation of the tariff category in the impugned order. As regards parallel operation charges, it has been stated that since this matter is being separately examined by the Commission the petitioner will have an opportunity to be heard in the proceedings of that case.

5. We have heard the parties. This application for review has been submitted on three main grounds, viz (i) lack of clarification in the impugned tariff order with regard to the captive power plant policy; (ii) modification of the definition of HV-6 tariff category to accommodate the petitioner; and (iii) review of parallel operation charges. Taking the last ground first, it would suffice to mention here that the Commission had reduced parallel operation charges from the prevailing Rs.16/- per KVA to Rs.10/- in the captive power plant related order referred to by the petitioner vide order dated 06/02/06 passed in petition No.17 of 2005(M). Even the reduced charge was challenged by an industries association (Urja Industries Association) before the Appellate Tribunal for Electricity through an appeal. The Hon'ble Tribunal has upheld the order of the Commission vide their judgement dated 12/09/06 passed in appeal No.99 of 2006 and has observed that there is adequate justification for parallel operation charges. The Hon'ble Tribunal has held that "there is no escape for CPPs to pay charges for parallel operation by which parallel operation the CPP

gains while the transmission system of the second respondent (CSEB) is affected apart from the admitted fact that transmission grid is strengthened by the power injected by the CPP. Hence the contention that no charges at all is payable by CPP to the second party (CSEB) for parallel operation is not acceptable nor such a claim could be sustained.” (Para 12). Although the Hon’ble Tribunal had directed the Commission to fix the charges afresh in course of examination of the tariff application for the year 2006-07, the tariff orders were passed before the judgement of the Hon’ble Tribunal was received. However, we are examining the matter now in the light of the directions of the Hon’ble Tribunal and have asked the respondent CSEB to submit their proposal with full justification so that the charges are determined on scientific basis. We also propose to hold public hearing on this issue. The petitioner will have adequate opportunity to present his case during consideration of the proposal of CSEB. We may further mention here that although the petitioner was a party to the appeal filed before the Hon’ble Appellate Tribunal on this issue and had an opportunity of putting forth his case, he failed to make any written submission and this has been noted by the Appellate Tribunal in para 19 of the judgement. Thus there is no basis for review of the tariff order on this point.

6. We do not consider that there is any error in the impugned tariff order by not clearly spelling out the position of the special provisions made for CPPs and their captive consumers in the CPP related order dated 06/02/06. The order dated 06/02/06 is quite clear in its import and its application. The special dispensation given to the CPPs and captive consumers in this order, in pursuance of the provisions of the Act, the National Electricity Policy and National Tariff Policy, the Commission has made it very clear as to which of the provisions are subject to tariff revision and which are not. For example, in para 8 of the order there is reference to then prevailing HV-6 tariff and it has been expressly provided that this is subject to change by the Commission from time to time as per tariff orders. As regards monthly minimum charges, para 6.6 of the order clearly lays down the decision of the Commission that captive consumers of CPPs while paying demand charge “will not be required to pay monthly minimum charges on consumption considering the fact that their requirement of power is to be met from the CPP only and that they may take very little power from the licensee/CSEB”. This provision has not been made subject to subsequent tariff orders. There is nothing in the impugned order even to suggest that this special provision is superseded by that order. In fact, tariff category HV-3 which applies to the petitioner now, as per new tariffs for 2006-07, nowhere says that the special dispensation granted to him and other CPPs are withdrawn. We have ascertained the position as to the tariff made applicable to the petitioner’s industry, which is indisputably a captive consumer of its own CPP, and it has been confirmed by CSEB, and the petitioner himself in course of the proceedings, that he is being extended the benefit of exemption from minimum monthly charges on consumption being a captive consumer, in pursuance of our order dated 06/02/06. Thus the petitioner can have no grievance on this count. This was admitted by the President of BALCO who personally appeared and argued this case. His only plea was that a clarification should be issued so that there is no confusion on this issue. We find no need for such a clarification. The provision is applicable to all CPPs, whose number is comparatively large in this State, and not only to BALCO. There is no complaint from any quarter that there is any ambiguity about it in the tariff order. In any case, this can not be a ground for review of the impugned tariff order.

7. This leaves only the third plea of the petitioner that the scope of HV-6 tariff category should be expanded to include him. Tariff category HV-6 is applicable to all HT industries covered under HV-4 and HV-5 category working during daytime only, between 6.00 a.m. to 6.00 p.m., as an optional tariff. This tariff has also been made applicable to all generators (including captive generators) for start up power subject to certain conditionalities. The petitioner has not made out a case why the scope of this tariff should be expanded to include him. The monthly minimum charge fixed for HV-3 tariff category, which is applicable to the petitioner, is based on 15% load factor of the CD. The petitioner's plea is that this has been based on incorrect data furnished by CSEB that consumers in this category have a LF of 10 to 40 per cent, as the LF of BALCO is below 10 percent. We would not go by this argument, as this has no relevance to the petitioner because he is not required to pay monthly minimum charge on consumption as a captive consumer. He has a contract demand of 120 MVA with CSEB for which he has to pay the demand charge like any other consumer irrespective of his load factor. He can thus have no grievance about the new tariff (HV-3) applicable to him. We may mention here that the case of the petitioner is not that there is a tariff shock in his case, or even that the new tariff imposes a heavier burden on him as compared to the tariff applicable to him so far. That is also factually not the case.

8. In the light of the above discussion, no case for review of the tariff order dated 13/09/06 has been made out by the petitioner. The review application is therefore rejected.

Sd/-  
**Member**

Sd/-  
**Chairman**

**True Copy**

**(N.K. Rupwani)**  
**Secretary**